# Neg- Harrison Radical Dem Aff- TOC – Nirmal

## Strat

Any of the following in the 1NC:

* Util + 2 generic DAs
* Maybe a new PIC at TOC
* For Harrison RR: Put Wilderson, a DA, and then case answers

## DA- Hate Speech

#### Harrassment decreasing on campus now- proves codes are effective

Sutton 16 Halley Sutton, Report shows crime on campus down across the country, Campus Security Report 13.4 (2016), 9/9/16,http://onlinelibrary.wiley.com/doi/10.1002/casr.30185/full //

A recent report released by the National Center for Education Statistics found an overall decrease in crimes at educational institutions across the country since 2001. The overall number of crimes reported by postsecondary institutions has dropped by 34 percent, from 41,600 per year in 2001 to 27,600 per year in 2013. The report, titled Indicators of School Crime and Safety: 2015, covers higher education campuses as well as K–12 schools and includes such topics as victimization, teacher injury, bullying and cyberbullying, use of drugs and alcohol, and criminal incidents at postsecondary institutions. The report found significant decreases in instances of bullying, harassment due to sexual orientation, and violent crime at all levels of education. The number of on-campus crimes reported at postsecondary institutions in 2013 was lower than in 2001 for every category except forcible sex offenses and murder.

#### Hate speech is constitutionally protected- the aff restricts it

**Moore 16** [Social Studies Research and Practice www.socstrp.org Volume 11 Number 1 112 Spring 2016 You Cannot Say That in American Schools: Attacks on the First Amendment James R. Moore Cleveland State University]

**The first amendment**, a crucial component of American constitutional law, **is under attack from** various **groups** **advocating for censorship in universities** and public schools. The censors assert that restrictive speech codes preventing anyone from engaging in any expression deemed hateful, offensive, defamatory, insulting, or critical of sacred religious or political beliefs and values are necessary in a multicultural society. These speech codes restrict critical comments about race, religion, gender, sexual orientation, physical characteristics, and other traits in the name of tolerance, sensitivity, and respect. Many **hate speech codes are a violation of the first amendment** **and have been struck down** **by** federal and state **courts**. **They persist** in jurisdictions where they have been ruled unconstitutional; **most** universities and **public schools have speech** **codes**. This assault on the first amendment might be a concern to all citizens, especially university professors and social studies educators responsible for teaching students about the democratic ideals enshrined in our constitution. Teachers should resist unconstitutional speech codes and teach their students that the purpose of the first amendment is to protect radical, offensive, critical, and controversial speech. The first amendment in the Bill of Rights, the foundation of individual freedom in the United States, protecting the freedoms of religion, speech, press, assembly, and petition. These basic freedoms, derived from Enlightenment philosophy and codified in the world’s oldest written constitution, have been an essential characteristic of American democracy and law since 1791. This is continuity considering “between 1971 and 1990, 110 of the world’s 162 national constitutions were either written or extensively rewritten” (Haynes, Chaltain, Ferguson, Hudson, & Thomas, 2003, p. 9). The first amendment has been the conduit employed by U.S. citizens to create an increasingly free and just society based on the constitutional ideals of equality before the law, popular sovereignty, limited government, checks and balances, federalism, and individual liberties (Center for Civic Education, 2009). Advocates for the abolition of slavery and the expansion of civil rights were able, after long struggles, to achieve their goals of expanding freedom and social justice by using their natural rights to free expression and religious liberty (Dye, 2011). Since no constitutional liberty or right is absolute, American institutions continuously debate the definitions, limitations, and exceptions to these fundamental rights based on social, political, and technological changes. This task has been exacerbated by increasing cultural diversity and technological changes (the Internet and social media) that expand communication. In addition, efforts by some people to censor language in the name of tolerance and respect for diversity have increased in recent years (Foundation for Individual Rights in Education, 2013, p.4). The first amendment is the world’s oldest written safeguard for freedom of expression—this includes allowing blasphemy and expression that may be radical, offensive, controversial, ignorant, and militantly bigoted—and is the cornerstone of participatory democracy (Haynes et al., 2003). The first amendment is under constant attack from some religious organizations, political action groups, ethnically-based activist groups, and, most alarmingly, from American public universities that severely restrict freedom of expression and public debate (Foundation for Individual Rights in Education, 2013; Haynes, 2013; Hudson, 2011). The Foundation for Individual Rights in Education (2013) found “**62% of universities** (254 out of 409 universities in the survey) **maintain** severely **restrictive** **red-light speech codes** – **policies that** clearly and **substantially prohibit protected speech**” (p. 4). Many Americans do not understand, or do not accept, that the first amendment protects unpopular, offensive, controversial, and radical speech; this includes making hateful statements about race, gender, religion, and any other topic the speaker wishes to address (Haynes et al., 2003; Marshall & Shea, 2011; Pew Forum on Religion and Public Life, 2010). Many hate **speech codes**, thus, often are defined “as hostile or prejudicial attitudes expressed toward another person’s or group’s characteristics, notably sex, race, ethnicity, religion, or sexual orientation” (Dye 2011, p. 508). The hate speech instituted in American universities and Kindergarten-12 schools **are** often, albeit well-intended, **violations of the First Amendment** (Foundation for Individual Rights in Education; Haynes, 2013; *Saxe V. State College Area School District*, 2001).

#### Removing restrictions on free speech allows hate speech – hate speech IS free speech

**Volokh 15** Eugene Volokh,No, There’s No “hate Speech” Exception to the First Amendment, The Washington Post, 5/7/15, <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/05/07/no-theres-no-hate-speech-exception-to-the-first-amendment/?utm_term=.05cfdd01dea4> //

I keep hearing about a supposed “hate speech” exception to the First Amendment, or statements such as, “This isn’t free speech, it’s hate speech,” or “When does free speech stop and hate speech begin?” But there is no hate speech exception to the First Amendment. Hateful ideas (whatever exactly that might mean) are just as protected under the First Amendment as other ideas. One is as free to condemn Islam — or Muslims, or Jews, or blacks, or whites, or illegal aliens, or native-born citizens — as one is to condemn capitalism or Socialism or Democrats or Republicans. To be sure, there are some kinds of speech that are unprotected by the First Amendment. But those narrow exceptions have nothing to do with “hate speech” in any conventionally used sense of the term. For instance, there is an exception for “fighting words” — face-to-face personal insults addressed to a specific person, of the sort that are likely to start an immediate fight. **But** this exception isn’t limited to racial or religious insults, nor does it cover all racially or religiously offensive statements. Indeed, when the City of St. Paul tried to specifically punish bigoted fighting words, the Supreme Court held that this selective prohibition was unconstitutional (R.A.V. v. City of St. Paul (1992)), even though a broad ban on all fighting words would indeed be permissible. (And, notwithstanding CNN anchor Chris Cuomo’s [Tweet](https://twitter.com/ChrisCuomo/status/595934009764487168) that “hate speech is excluded from protection,” and his later claims that by “hate speech” he means “fighting words,” the fighting words exception is not generally labeled a “hate speech” exception, and isn’t coextensive with any established definition of “hate speech” that I know of.)

#### Speech codes are good– they diminish right-wing movements and form coalitions of targeted groups.

**Parekh 12** [Parekh, Bhikhu (2012) ‘Is There a Case for Banning Hate Speech?’, in Herz, M. and Molnar, P. (eds.) The Content and Context of Hate Speech: Rethinking Regulation and Responses. Cambridge: Cambridge University Press, pp. 37–56. ]

It is sometimes argued that banning hate speech drives extremist groups under- ground and leaves us no means of knowing who they are and how much support they enjoy. It also alienates them from the wider society, even makes them more detennined. and helps them recruit those attracted by the allure of forbidden fruit. This is an important argument and its force should not be underestimated. How- eyer, it has its limits. A ban on hate speech might drive extremist groups underground, but it also persuades their moderate and law-abiding members to dissociate them- selves from these groups. When extremist groups go underground, they are denied the oxygen of publicity and the aura of public respectability. This makes their operations more difficult and denies them the opportunity to link up with other similar groups and recruit their members. While the ban might alienate extremist groups, it has the compensating advantage of securing the enthusiastic commitment and support of their target groups. Besides, beyond a certain point, alienation need not be a source of worry. Some religious groups are alienated from the secular orientation of the liberal state, inst as the communists and polyamoronsly inclined persons bitterly resent its commitment (respectively) to market economy and rnonogamy. We accept such forms of alien- ation as inherent in collective life and do not seek to redress them by abandoning the liberal state. The ban might harden the determination of some, but it is also likely to weaken that of those who seek respectability and do not want to be associated with ideas and groups considered so disreputable as to be banned, or who are deterred by the cost involved in supporting them. There is the lure of the prohibited, but there is also the attraction of the respectable.

#### The DA turns the case and outweighs

#### 1. Magnitude- Hate speech normalizes psychological violence which renders educational spaces null and increases likelihood of physical violence

* Makes physical violence more likely—empirically proven
* Causes psychological harms
* Makes educational spaces null and void
* Normalizes oppressive practices
* Easy to reject from a position of privilege

**Heinze 14**: Eric Heinze, professor of law & humanities at Queen Mary university of London. March 31, 2014. Nineteen arguments for hate speech bans—and against them. Free Speech Debate. Free speech scholar Eric Heinze identifies the main arguments for laws restricting hate speech and says none are valid for mature Western democracies. <http://freespeechdebate.com/en/discuss/nineteen-arguments-for-hate-speech-bans-and-against-them/>. RW

On all sides of the debate, we can agree that speech is necessary for democracy. Governments ought not to abridge speech willy-nilly. They must show how the speech in question poses a genuine danger. In the case of hate speech, has any such menace been shown? In my book [Hate Speech and Democratic Citizenship](https://global.oup.com/academic/product/hate-speech-and-democratic-citizenship-9780198759027?cc=gb&lang=en&), I reject the classical liberal defences of free speech, let alone newer libertarian ones. I argue that the strongest case for free speech is grounded on specifically democratic principles, which must not be confused with Millian, liberal ones. I cannot reproduce that thesis here, but will briefly respond to some familiar claims raised by the bans’ advocates. 1. The ‘anti-absolutist’ argument: ‘No rights are absolute. Rights must be limited by respect for others, and by the needs of society as a whole. The British Lord Bhikhu Parekh writes, “Although free speech is an important value, it is not the only one. Human dignity, equality, freedom to live without harassment and intimidation, social harmony, mutual respect, and protection of one’s good name and honour are also central to the good life and deserve to be safeguarded. Because these values conflict, either inherently or in particular contexts, they need to be balanced.” There are, moreover, many regulations of speech to which no one objects, punishing, for example, commercial fraud, graffiti, or courtroom perjury. Hate speech bans are no different.’ The ‘not speech’ argument: ‘The crudest hate speech is not really speech at all. It is merely the kind of “inarticulate grunt” that can legitimately be banned because it forms, in the words of US Supreme Court Justice Anthony Kennedy, “no essential part of any exposition of ideas.”’ The ‘Weimar’ (or ‘snowball’) argument: ‘Democracy under the Weimar Republic or the former Yugoslavia show that too much free speech leads to atrocities. Some offensive remarks may, on the surface, appear harmless. But seemingly innocuous offences snowball into more pernicious forms. Once speech reaches a Nazi-like extreme, it becomes too late to avert the dangerous consequences.’ The ‘direct harm’ argument: ‘Hate speech can cause psychological harm, just as hate-motivated violence causes physical harm. Children who are called “nigger”, “Paki”, or “queer” suffer just as much as when they are physically bullied. For adults, verbal abuse can render workplace, educational or other environments unbearable.’ The ‘indirect harm’ argument: ‘The harms of hate speech do not manifest in a conventionally empirical sense. From some phenomenological and socio-linguistic perspectives, hateful expression is “illocutionary”, i.e. not merely denoting hatred but enacting discrimination, and “perlocutionary”, disseminating adverse psychological effects regardless of any materially evident impact. Anthony Cortese describes a “cultural transmission theory”, whereby cultures “pass hate on to each succeeding generation, making intolerance “normal or conventional.” Hate speech germinates intolerance, not through discrete, causally traceable chains of events, but through cumulative effects.’ The ‘hate crime’ argument: ‘The bans are necessary because hate speech is commonly connected to hate-based acts of murder, battery, rape, assault, and property theft or damage.’ The ‘disproportionate impact’ argument: ‘It’s easy for those in privileged positions to oppose hate speech bans. They do not bear the brunt of hatred. But “individual freedom” looks different from the viewpoint of historically vilified groups.’

#### Turns counterspeech- psychological violence hurts ability to participate in the movement

#### 2. Inclusivity- It causes less discursive participation from minorities which harms ability to reach the truth

**Horne 16**: Solveigh Horne, Minister of children and equality in Norway. “hate speech—a threat to freedom of speech.” March 8, 2016. Huffington Post. <http://www.huffingtonpost.com/solveig-horne/hate-speech--a-threat-to_b_9406596.html>. RW

Hate speech in the public sphere takes place online and offline, and affects young girls and boys, women and men. We also see hate speech attacking vulnerable groups like people with disabilities, LGBT-persons and other minority groups. Social media and the Internet have opened up for many new arenas for exchanging opinions. Freedom of speech is an absolute value in any democracy, both for the public and for the media. At the same time, opinions and debates challenge us as hate speech are spread widely and frequently on new platforms for publishing. Hate speech may cause fear and can be the reason why people withdraw from the public debate. The result being that important voices that should be heard in the public debate are silenced. We all benefit if we foster an environment where everybody is able to express their opinions without experiencing hate speech. In this matter we all have a responsibility. I am especially concerned about women and girls being silenced. Attempts to silence women in the public debate through hate speech, are an attack on women’s human rights. No one should be silenced or subjected to threats when expressing themselves in public. Women are under-represented in the media. In order to get a balanced public debate it is important that many voices are heard. We must encourage women and girls to be equal participants with men. Hate speech prevents women from making their voices heard. I also call upon the media to take responsibility in this matter. In some cases the media may provide a platform for hate speech. At the same time, I would like to stress that a liberal democracy like Norway strongly supports freedom of speech as a fundamental right.

## Case

### AT: Friedersorf

#### No impact to the aff—most people think we already have free speech, nothing is going to change

**Dwyer 16** (Liz, writes about race, parenting, and social justice for several national publications, “College Students Say Free Speech Has Its Limits,” April 4, 2016, http://www.takepart.com/article/2016/04/04/college-students-free-speech-limits//[LADI](http://www.theladi.org/evidence))

Last fall, the football team at the University of Missouri went on strike to protest slow administrative response to incidents of racial harassment on campus, joining other students in a movement that resulted in the resignation of the school’s president. Although students at the school asserted their right to protest, a viral video of Tim Tai, a student photojournalist, being blocked from documenting what was happening raised concerns over whether free-speech rights on the campus were eroding. “The First Amendment protects your right to be here and mine,” Tai told the protesters gathered around him. “Forget a law. How about humanity and respect?” replied a student. A few minutes later, professor Melissa Click, now fired, could be seen on the video trying to prohibit another student from recording the incident. “Hey, who wants to help me get this reporter out of here?” Click yells to the protesters. According to a Gallup survey of college students, released Monday in collaboration with the Knight Foundation and the Newseum Institute, most undergraduates across the United States believe First Amendment rights are secure. At the same time, nearly half think some restrictions on free speech are justified. “Students do appear to distinguish controversial views from what they see as hate. They believe colleges should be allowed to establish policies restricting language and behavior that are intentionally offensive to certain groups, but not the expression of political views that may upset or offend members of certain groups,” wrote the authors of a report accompanying the survey. The survey polled a nationally representative sample of 3,000 college students ages 18 to 24 about their attitudes toward the First Amendment. While 78 percent said that “colleges should expose students to all types of speech and viewpoints,” the report’s authors note that 69 percent believe policies against slurs and intentionally offensive language are needed.

#### Speech codes rapidly declining

**FIRE 17** [Foundation for Individual Rights in Education, "Spotlight on Speech Codes 2017," 2017] AZ

FIRE surveyed 449 schools for this report and found that 39.6 percent maintain severely restrictive, “red light” speech codes that clearly and substantially prohibit constitutionally protected speech. This is the ninth year in a row that the percentage of schools maintaining such policies has declined, and this year’s drop was nearly ten percentage points. (Last year, 49.3 percent of schools earned a red light rating.) In addition, an unprecedented number of schools have eliminated all of their speech codes to earn FIRE’s highest, “green light” rating: As of September 2016, 27 schools received a green light rating from FIRE. This number is up from 22 schools as of last year’s report. In another heartening trend, a growing number of schools are adopting statements in support of free speech modeled after the one adopted by the University of Chicago in January 2015. As of this writing, 20 schools or faculty bodies in FIRE’s Spotlight database had endorsed a version of the “Chicago Statement.”

#### This outweighs:

#### A. their evidence describes alt causes outside of colleges to threats to free speech like “government spies” which the aff can’t resolve

#### B. recency- FIRE surveys a wider scope of schools whereas Friedersorf surveys those schools in 2015 and finds that policies are not as restrictive

#### Their examples are also isolated and explain student responses to hate speech- however those responses also constitute free speech, the impact is either that A. the aff does nothing because it respects those students rights to protest or B. it takes away right to protest which leads to more aggression

### AT: Long

#### Student activism and protests are at an all-time high. HERI 16 Higher Education Research Institute 16.

Higher Education Research Institute. “College students’ commitment to activism, political and civic engagement reach all-time highs”. UCLA Newsroom. February 10, 2016. <http://newsroom.ucla.edu/releases/college-students-commitment-to-activism-political-and-civic-engagement-reach-all-time-highs>.

Colleges and universities across the U.S. experienced an increase in student activism over the past year, as students protested rising college costs and hostile racial climates on their campuses. Now, findings from UCLA’s annual CIRP Freshman Survey (PDF) suggest that participation in demonstrations may intensify in the months ahead. The survey of 141,189 full-time, first-year students from around the U.S. found that interest in political and civic engagement has reached the highest levels since the study began 50 years ago. Nearly 1 in 10 incoming first-year students expects to participate in student protests while in college. The survey, part of the Cooperative Institutional Research Program, is administered nationally by the Higher Education Research Institute at the UCLA Graduate School of Education and Information Studies. The 8.5 percent who said they have a “very good chance” of participating in student protests while in college represents the highest mark in the survey’s history and is an increase of 2.9 percentage points over the 2014 survey. Black students were the most likely to expect to protest, with 16 percent reporting that they had a very good chance of demonstrating for a cause while in college — 5.5 percentage points higher than in 2014. The rising interest in activism coincides with some recent successful protests by college students. After months of protesting a perceived lack of responsiveness by university administrators to racial bias and discrimination, University of Missouri students forced the resignation of the system’s president in November 2015. “Student activism seems to be experiencing a revival, and last fall’s incoming freshman class appears more likely than any before it to take advantage of opportunities to participate in this part of the political process,” said Kevin Eagan, director of CIRP. “We observed substantial gains in students’ interest in political and community engagement across nearly every item on the survey related to these issues.”

#### Protests high – the aff isn't necessary

**Wong 15** [Alia Wong (associate editor at The Atlantic), "The Renaissance of Student Activism," The Atlantic, 5/21/2015] AZ

Maybe the campus protests seemed rather isolated at first. Dissatisfaction with the administration. Outrage over bad decisions. A student altercation gone bad. For example: The protest at Florida State University last fall, when students didn’t like the idea of having the Republican state politician John Thrasher as their school’s president and launched a campaign—#SlashThrasher—against his candidacy. Citing the lawmaker’s corporate ties, various groups staged demonstrations, including some who organized a march to the city center. Or the protest at the University of Michigan in September, when, amid frustrations over their football team’s losses, students rallied at the home of the school’s president to demand that he fire the athletic director. They had more on their minds than lost points: The director had neglected to remove the team’s quarterback from a football game after he suffered a serious head injury that was later diagnosed as a concussion. (The Florida students’ protest failed to change minds at FSU, but Michigan’s athletic director was quickly sent packing.) There was the confederate-flag fiasco at Bryn Mawr, which resulted in a mass demonstration by hundreds of students who, all dressed in black, called for an end to racism on the Pennsylvania campus. A week later, more than 350 students staged a similar protest further north, at New York’s Colgate University. That one—dubbed #CanYouHearUsNow—likewise aimed to to end bigotry among students and faculty; it was in part prompted by a series of racist Yik Yak posts. Just as has been happening in communities at large, campus protests against racism and bigotry—along with related types of discrimination—have become commonplace. Students at the University of Chicago hosted a #LiabilityoftheMind social-media campaign last November to raise awareness about institutional intolerance. A “Hands Up Don’t Shoot” walkout was staged the same month by hundreds of Seattle high-schoolers. Roughly 600 Tufts students lay down in the middle of traffic in December for four and a half hours—the amount of time Michael Brown’s body was left in the street after behind shot. Students at numerous other colleges did the same. Of course, there were other common themes, too. Early last fall, Emma Sulkowicz, then a student at Columbia, pledged to carry a mattress on campus daily to protest the school’s refusal to expel her alleged rapist. Soon, hundreds of her classmates joined her, as did those at 130 other college campuses nationwide, according to reports. Anti-rape demonstrations became a frequent occurrence as colleges across the country came under scrutiny for their handling of campus sexual-assault cases. There were walkouts and sit-ins, canceled speeches and banner campaigns. Last May, the U.S. Department of Education reported that it was investigating 55 colleges and universities for possible violations of Title IX. As of this January, the number had gone up to 94. Sulkowicz even carried her mattress—with the help of two classmates—across stage to get her diploma on Tuesday: These demonstrations were, and are, very far from isolated. “There’s a renaissance of political activism going on, and it exists on every major campus,” Harold Levy, a former chancellor of New York City’s public schools who now oversees the Jack Kent Cooke Foundation, recently told me. Levy attributed this resurgence in part to the growing inequality in educational opportunity in the country, which has contributed to great tensions between institutions and the public they’re supposed to serve; even protests that don’t explicitly focus on this cause, he said, are byproducts of this friction. It’s happening again—it’s like when we were here! It’s happening! Levy, 61, was quoting a recent remark made by a friend who’s a trustee at Cornell, Levy’s alma mater. “He’s in a position of authority now, and he didn’t know whether to celebrate it or to worry about it,” Levy said. “And of course the answer is both: You want kids to be politically active precisely because you want their engagement in the world, and you want to encourage them to be free thinkers.” But that activism also threatens the institutions’ control. This resurgence in campus activism necessarily a new phenomenon. After all, The New York Times wrote about “The New Student Activism” back in 2012, attributing the trend to the Occupy Movement. But observers say the activism that’s since proliferated has a different feel, and this new chapter could trigger significant shifts in the way things are run. At least 160 student protests took place in the U.S. over the course of the 2014 fall semester alone, according Angus Johnston, a history professor at the City University of New York who specializes in student activism. “There’s certainly something of a movement moment happening right now,” he said, pointing in part to the news media, which fuels activism by putting protests on the public’s radar. “The campus environment right now has, for the past couple of years, reminded me a lot of the early- to mid-60s moment, where there was a lot of stuff happening, a lot of energy—but also a tremendous amount of disillusionment and frustration with the way that things were going in the country as a whole and on the campuses themselves.” And this sentiment has been taking hold in other parts of the world, too: Thousands of students (and teachers) have been demonstrating in Chile this month in the name of education reform, including two students who were killed last week. For younger generations, Johnston added, the “belief that you can change the world [hasn’t been] beaten out of you yet.” Johnston runs a blog-ish website featuring a resource that’s oddly hard to find on the Internet today: a modern timeline of student protests, including color-coded maps illustrating the location and theme of these demonstrations. Perhaps unsurprisingly, the map (which has yet to be updated with data from the spring semester) reveals that most of the recent student uprisings during the fall of 2014 focused on racism and police violence, all but a few of them in the eastern half of the country. Many of these demonstrations used hashtags to mobilize, some of which are still in use today. Meanwhile, according to Johnston’s analysis, about half of the 160 protests were evenly split between two main themes: sexism/sexual assault and university governance/student rights. The remainder called for improvements to tuition and funding—about half of them at University of California schools.

#### Their evidence is a joke- it describes one racial incident at the University of Wisconsin which isn’t descriptive to the broader campus climate compared to our evidenc.e

### AT: Boatright

#### This doesn’t indict the ineffectiveness of speech codes- obviously we don’t claim to solve all of racism, but neither does the aff so at best it’s nonunique

### AT: Strossen

#### 1. Strossen’s incorrect- empirically flows neg

**Rumney 3** [32 Comm. L. World Rev. 117 (2003) The British Experience of Racist Hate Speech Regulation: A Lesson for First Amendment Absolutists, Rumney, Philip N. S. (Philip Rumney is a professor of criminal justice at Bristol Law School ); https://heinonline.org/HOL/Page?handle=hein.journals/comlwr32&start\_page=117&collection=journals&id=127 //BWSWJ]

In addition, it is clear that the incitement law in this country does not outlaw 'legitimate anger at real discrimination', just as it does not outlaw most expressions of racism. Rather, it draws the line at any speech that incites racial hatred. In other words, particular viewpoints are not outlawed. Rather, it is the manner in which the words are communicated that is regulated. It has also been suggested that Malik provides evidence that the incitement provision has been applied in a discriminatory manner.213 The problem with this claim is that there is absolutely no evidence to substantiate it. This claim appears to be based upon the grounds that Malik involved the prosecution of a black man. To suggest bad faith on the part of the Attorney-General, police, prosecutors, and several judges on such a flimsy basis is perhaps an indication of the weakness of much of the analysis in this area. Another version of this criticism is provided by Coliver who claims that incitement provisions 'lend themselves to abuse'.214 Why hate speech laws are inherently more likely to be open to abuse than a myriad of other civil and criminal laws is never made clear. In support of this claim Coliver cites the prosecution of black people noted earlier: 'the 1965 [Act] was used during its first decade more effectively against Black Power leaders than against white racists'.215 If by 'more effectively' Coliver is refer- ring to the number of prosecutions or convictions then her claim is misleading because it takes no account of why prosecutions were being instigated. In addition, she takes no account of the prosecution record after the mid-1970s. Similar criticisms can be made of the claim by Korengold that black people were, at least initially, 'dispro- portionately prosecuted' under the incitement provision.1 6 In this context Lester and Bindman noted in 1972 that 'there is a widespread and erroneous impression that most of the prosecutions [under the 1965 Act] have been brought against black people'.217 They also argue that the prosecutions directed at minorities were 'against a back- ground of growing anti-white invective by members of the Black power movement'.218 It is worth noting the statistical breakdown of prosecutions during the period when the 1965 Act was in force. Dur- ing this time there were prosecutions against fifteen individuals, with ten convictions. Five of the defendants were black and ten white. Of those convicted five were black and five white.219 It is also worth considering later prosecutions under the 1976 Act. Between 1976 and 1981 there were prosecutions against twenty-two individuals all of whom were white, with fifteen convictions. When one examines domestic commentaries to see if there is any support for the claim that the incitement provision has been abused we find only limited evidence. In the work of Williams, 2 21 Dickey,222 Lester and Bindman, 223 Leopold, 224 Bindman, 22' Gordon, 226 and Cotterrel1 227 we find criticism of the legislation, but few make allega- tions of anything approaching an abuse of prosecutorial discretion. 28 One of the exceptions is an early commentary by Longaker, who questioned the decision to prosecute the defendant in Malik. He ar- gued that where people such as Malik are not heard, the 'political system is correspondingly impoverished' 2 9 and that the incitement provision was 'not only short sighted but can easily exacerbate the problem [of racism]'. 231 Another early commentary argued that the wording of the incitement provision was 'potentially wide', 231 though as already noted, this does not appear to have caused significant problems. It appears that much of the criticism has been levelled at the fact that it is difficult to gain convictions under the incitement 232 law. The claim that the incitement provision has been abused is further undermined by factual errors. In partly drawing upon the work of Neier, Strossen claims that the Race Relations Act 1965 has been: regularly used to curb the speech of blacks, trade unionists and anti- nuclear activists. In perhaps the ultimate irony, this statute which was intended to restrain the neo-Nazi National Front, instead has barred 33 This statement contains numerous factual errors. The curbs on 'trade unionists' were neither legal restrictions, nor did they have anything to do with the incitement provision.234 Neither were the prosecutions against peace activists. These were actually prosecutions brought under the Public Order Act 1936 and official secrets legislation as noted by Neier, but not Strossen.235 The curbs on the Anti-Nazi League involved temporary restrictions on public processions in an area where the police believed there was a serious danger of public disorder:236 a crucial point ignored by both Strossen and Neier. Cru- cially, these restrictions were not imposed under the Race Relations Act 1965, as there were and are no provisions under the incitement law that give the police any powers to ban demonstrations. 2 3 Rather, the law under which these restrictions were imposed was the Public Order Act 1936 which was introduced interalia to clarify: how the authorities could judge a meeting or procession within existing case law; whether they were designed to convert ... or intimidate. It also attempted to increase protection for those subject to abuse or phys- ical violence but stopped short of defending specific minorities or outlawing named organisations.

#### 2. The Strossen evidence cherrypicks UMich empirics- they are super progressive now and are effective with their codes- our ev. is more recent

**WT 15** [Washington Times Http, 2-10-2015, "EDITORIAL: University of Michigan regulates ‘nice’ speech," Washington Times, <http://www.washingtontimes.com/news/2015/feb/10/editorial-university-of-michigan-regulates-nice-sp/>] NB

The unwary, which includes most of us, should step lively if stumbling onto the campus of [the University of Michigan](http://www.washingtontimes.com/topics/the-university-of-michigan/). You might offend by saying “good morning” to someone who is having an awful morning. Your obliviousness to the pain of others would be unforgivable, if not yet illegal. The [university](http://www.washingtontimes.com/topics/the-university-of-michigan/) has a new “Inclusive Language Campaign,” spending $16,000 for signs, banners and other reminders to students (and maybe even to a few professors) to avoid hurting feelings with an unthinking word spoken in haste. Some of the words seem innocent enough, and no doubt are on saner campuses elsewhere: insane, retarded, gay, tranny, gypped, illegal alien, fag, ghetto and raghead. Certain phrases are forbidden, too. You can’t say, perhaps after flunking a test in calculus, “I want to die.” That might offend someone who has just botched a suicide attempt and is doomed to continue on this dirty, rotten planet. Don’t say “that test simply raped me,” either. You must respect the rules of the campus rape culture. The idea, university spokesman Rick Fitzgerald tells the College Fix, which monitors campus nonsense, is that the Inclusive Language Campaign tries to “address campus climate by helping individuals understand their words can impact someone and to encourage individuals to commit to creating a positive campus community.” (And perhaps someone in the English Department could help a university spokesman with the spoken language.)

#### 3. Their Britain empiric is outdated- it’s from 50 years ago and doesn't state that race relations actually got worse because of the act- globally, hate speech laws have been effective

**Bell 09** [Bell, Jeannine (2009) "Restraining the Heartless: Racist Speech and Minority Rights," Indiana Law Journal: Vol. 84: Iss. 3, Article 9. Available at: http://www.repository.law.indiana.edu/ilj/vol84/iss3/9 ] NB

Canada, Denmark, France, Germany, and the Netherlands have fairly similar hate speech laws, which commentators say are actively enforced. Hate speech laws in these countries have both criminal and civil penalties and are premised on the need to protect human dignity "quite apart from any interest in safeguarding public order."' 1 4 A conviction under the criminal incitement laws of Canada requires proof ofeither intent to incite hatred or, in the alternative, the likelihood of breaching the peace. By contrast, one can be convicted under the hate speech laws of France, Denmark, Germany, and the Netherlands without intending to incite hatred and without having breached the peace. 10 5 The approach taken by countries around the world to place restrictions on racist speech is also reflected in the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination. These human rights instruments, though they explicitly protect freedom of expression, also recognize the link between hate speech and discrimination and allow significant restrictions on hate speech. 106 Article 20(2) of the International Covenant on Civil and Political Rights states that "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law."' 0 7 Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination requires governments to outlaw all dissemination of ideas based on racial superiority or hatred. It also requires them to prohibit all organizations which promote and incite racial discrimination.

#### 4. Classifying hate speech is relatively clear-cut – other laws prove that line-drawing is feasible

* yes brightline
* line-drawing problem isn't a reason to reject regulation entirely

**Rosenfeld 01** [Michel Rosenfeld (Justice Sydney L. Robins Professor of Human Rights, Benjamin N. Cardozo School of Law), "HATE SPEECH IN CONSTITUTIONAL JURISPRUDENCE: A COMPARATIVE ANALYSIS," Jacob Burns Institute for Advanced Legal Studies, 2001] AZ

Unless one adopts a Holmesian view of speech139 , the “slippery slope” argument is largely unpersuasive, and this seems particularly true in the context of hate speech. Indeed, in many cases, such as those involving Holocaust denial, cross burning, displaying swastikas, calling immigrant “animals”, there do not appear to be any line drawing problems. These cases involve clearly recognizable expressions of hate which constitute patent assaults against the most basic dignity of those whom they target, and which fly in the face of even a cursory commitment to pluralism. On the other hand, there are cases of statements, which some groups may find objectionable or offensive, but which raise genuine factual or value based issues, and which ought therefore be granted protection. For example, strong criticism of the Pope for his opposition to contraception and to homosexual relationships as being “indifferent to human suffering caused by overpopulation and an enemy of human dignity for all” may be highly offensive to Catholics, but even in a country in which the latter are a religious minority should clearly not be in any way censored, punished or officially characterized as hate speech. There is of course a grey area in between these two fairly clear cut areas, in which there are difficult line drawing problems, as exemplified by the German controversy over the claim that “soldiers are murderers”140 . Line drawing problems, however, are quite common in law as they tend to arise whenever a scheme of regulation attempts to draw a balance among competing objectives. This problem may well be exacerbated when a fundamental right like free speech is involved, but that justifies at most deregulating the entire gray area, not toleration of all hate speech falling short of incitement to violence.

#### Enforcement is proportional to crime – empirical evidence from national institutes confirms. There is no abuse in the enforcement of hate speech laws.

**Delgado and Yun 94.**

Richard Delgado. David H. Yun. “Pressure Valves and Bloodied Chickens: AN Analysis of Paternalistic Objections to Hate Speech Regulation”. California Law Review. July 1994

**A second paternalistic argument is that enactment of hate speech rules is sure to hurt minorities because the new rules will be applied against minorities themselves**.61 A vicious insult hurled by a white person to a black will go unpunished, but even a mild expression of exasperation by a black motorist to a police officer or by a black student to a professor, for example, will bring harsh sanctions. The argument is plausibile because certain authorities are racist and dislike blacks who speak out of turn, and because a few incidents of blacks charged with hate speech for innocuous behavior have occurred. Nadine Strossen, for example, asserts that in Canada, shortly after the Supreme Court upheld a federal hate speech code, prosecutors began charging blacks with hate offenses.**62But the empirical evidence does not suggest that this is the pattern**, much less the rule. **Police and FBI reports show that hate crimes are committed much more frequently by whites against blacks than the reverse**. 63 **Statistics compiled by the National Institute Against Violence and Prejudice confirm what the police reports show, that a large number of blacks and other minorities are victimized by racist acts on campus each year.'** Moreover, **the distribution of enforcement seems to be consistent with commission of the offense**. Although an occasional minority group member may be charged with a hate crime or with violating a campus hate speech code, these prosecutions seem rare.6 5 Racism, of course, is not a one-way street; some minorities have harassed and badgered whites. Still, **the reverse-enforcement objection seems to have little validity** in the United States. A recent study of the international aspects of hate speech regulation showed that in repressive societies, such as South Africa and the former Soviet Union, laws against hate speech have indeed been deployed to stifle dissenters and members of minority groups.6 6 Yet, this has not happened in more progressive coun- tries.67 **The likelihood that officials** in the United States would **turn hate speech laws** into weapons against **minorities seems remote.**

#### Outweighs Strossen- its more recent and provides a wider review of minorities in the context of speech codes, it accounts for their empirics.

### AT: Glasser

#### 1. This evidence draws on analytics from 1990s- our evidence about how status quo courts can check better because the evidence is more recent

#### 2. The evidence is predictive and is about what would have happened if the codes were actually in force- they don’t take into account every single factor

#### 3. There is a very clear brightline for what counts as hate speech- anything that is uttered by one individual that has harmful or real racial potential dialogue between other

### AT: White

#### 1. This only applies to how courts direct their laws, not that public colleges limiting one type of speech would be modeled to limit all types of speech because there is no establishment of precedent, decision making is rather done on a case by case basis

#### 2. The card only talks about how free speech cases have been modeled, not that restriction cases have which means that the aff causes every single instance of free speech which supercharges our hate speech links

### AT: ACLU

#### 1. No internal link- None of the evidence proves that the Skokie case from 79 has been able to generate free speech rights for minorities in the future- especially when their own uniqueness evidence in the aff indicates that codes consistently have hurt them

#### 2. Link Turn- Supporting the most extreme cases kills movements- their Skokie example proves

**Horowitz 79** [Horowitz, Irving Louis. Bramson, Victoria Curtis. (Professor of Sociology and political science at Rutgers University and editor-in-chief), (Deputy Attorney General. Division of Criminal Justice.” “Skokie, the ACLU and the Endurance of Democratic Theory”. Spring 1979. http://scholarship.law.duke.edu/lcp/vol43/iss2/17] NB

The ACLU, as a result of its support of Nazi rights, has suffered angry criticism and close to 25 percent withdrawal. David Goldberger noted that "nearly 2,000 of the 8,000 members of the Illinois ACLU have resigned in the year following Skokie. 20 ° The Anti-Defamation League of B'nai B'rith has argued that free speech could be restrained in this case because of the "psychic trauma ' ' z that would result if the Nazis marched and displayed their swastikas. Various branches of the ACLU, like those in St. Louis, Houston and Jackson (Mississippi) voted not to aid the American Nazi party, although it did so in one instance because of the direct inflammatory appeal of a $5,000 bounty "for every non-white person arrested or convicted for an attack on a white person." 22 Clearly, in this instance, Jews were classified with the nonwhite population. The ACLU position is based on First Amendment guarantees of unimpeded free speech for all Americans. The ACLU was careful to distinguish between support for free speech and support for the ideology of the National Socialist Party of America. Rather than push this distinction, or for that matter obliterate it as a mere legal artifact, it might be worthwhile first to outline the legal precedents; second, the extra-legal implication; and third, the issues raised by Skokie.

#### 3. Link Turn- Free speech hurts minorities- civil rights proves

**Delgado and Yun 94** [Richard Delgado (Professor of Law @ University of Colorado, JD, 1974 University of California Berkeley)and David H. Yun (Member of Colorado Bar. JD 1993, University of Colorado), Pressure Valves and Bloodied Chickens: An Analysis of Paternalistic Objections to Hate Speech Regulation, 82 Cal. L. Rev. 871 (1994). Available at: <http://scholarship.law.berkeley.edu/californialawreview/vol82/iss4/5>] NB

Many absolutists and defenders of the First Amendment urge that the First Amendment historically has been a great friend and ally of social reformers. Nadine Strossen, for example, argues that without free speech, Martin Luther King, Jr. could not have moved the American public as he did. 8 Other reform movements also are said to have relied heavily on free speech.6 9 This argument, like the two earlier ones, is paternalistic-it is based on the supposed best interest of minorities. If they understood their own best interest, the argument goes, they would not demand to bridle speech. The argument ignores the history of the relationship between racial minorities and the First Amendment. In fact, minorities have made the greatest progress when they acted in defiance of the First Amendment.70 The original Constitution protected slavery in several of its provisions,7 1 and the First Amendment existed contemporaneously with slavery for nearly 100 years. Free speech for slaves, women, and the propertyless was simply not a major concern for the drafters, who appear to have conceived the First Amendment mainly as protection for the kind of refined political, scientific, and artistic discourse they and their class enjoyed. nearly 100 years. Free speech for slaves, women, and the propertyless was simply not a major concern for the drafters, who appear to have conceived the First Amendment mainly as protection for the kind of refined political, scientific, and artistic discourse they and their class enjoyed. 72 Later, of course, abolitionism and civil rights activism broke out. But an examination of the role of speech in reform movements shows that the relationship of the First Amendment to social advance is not so simple as free speech absolutists maintain. In the civil rights movement of the 1960s, for example, Martin Luther King, Jr. and others did use speeches and other symbolic acts to kindle America's conscience.73 But as often as not, they found the First Amendment (as then understood) did not protect them.7 4 They rallied and were arrested and convicted; sat in, were arrested and convicted; marched, sang, and spoke and were arrested and convicted.75 Their speech was seen as too forceful, too disruptive. Many years later, to be sure, their convictions would sometimes be reversed on appeal, at the cost of thousands of dollars and much gallant lawyering. But the First Amendment, as then understood, served more as an obstacle than a friend.76 Why does this happen? Narrative theory shows that we interpret new stories in terms of the old ones we have internalized and now use to judge reality.7 7 When new stories deviate too drastically from those that form our current understanding, we denounce them as false and dangerous. The free market of ideas is useful mainly for solving small, clearly bounded dis- putes.78 History shows it has proven much less useful for redressing sys- temic evils, such as racism. 79 Language requires an interpretive paradigm, a set of shared meanings that a group agrees to attach to words and terms.8 0 If racism is deeply inscribed in that paradigm-woven into a thousand scripts, stories, and roles-one cannot speak out against it without appear- ing incoherent. t An examination of the current landscape of First Amendment excep- tions reveals a similar pattern. Our system has carved out or tolerated doz- ens of "exceptions" to the free speech principle: conspiracy; libel; copyright; plagiarism; official secrets; misleading advertising; words of threat; disrespectful words uttered to a judge, teacher, or other authority figure; and many more. 2 These exceptions (each responding to some inter- est of a powerful group)83 seem familiar and acceptable, as indeed perhaps they are. But a proposal for a new exception to protect some of the most defenseless members of society, 18-year old black undergraduates at predominantly white campuses, immediately produces consternation: the First Amendment must be a seamless web. It is we, however, who are caught in a web, the web of the familiar. The First Amendment seems to us useful and valuable. It reflects our inter- ests and sense of the world. It allows us to make certain distinctions, toler- ates certain exceptions, and functions in a particular way we assume will be equally valuable for others. But the history of the First Amendment, as well as the current landscape of doctrinal exceptions, shows that it is far more valuable to the majority than to the minority, far more useful for confining change than for propelling it.8"

### AT: Majeed

[Counterspeech teaches minority students the process of discussion and critical thinking to justify themselves in the future, they gain self reliance and constructive activism when they don’t rely on administrators, they are seen as incapable of defending themselves if others do all the work, codes can’t eliminate all racist intuitions, safety valve for people who are racist, driving thought underground, and chilling effect on campus, calleros example.]

#### 1. Their solvency is nonunique- speech codes are not mutually exclusive with open dialogue

**Delgado and Yun 94** [Richard Delgado (Professor of Law @ University of Colorado, JD, 1974 University of California Berkeley)and David H. Yun (Member of Colorado Bar. JD 1993, University of Colorado), “The Neoconservative Case against Hate-speech regulation- lively, d’souza, Gates, Carter, and the toughlove Crowd” Vanderbilt Law Review. 1994.] NB

How should we see the bellwether argument? In one respect, the argument does make a valid point. All other things being equal. the racist who is known is less dangerous than the one who is not.“ What tbe argument ignores is that there is a third alternative, namely the racist who is cured, or at least deterred by rules, policies, and official statements so as to no longer exhibit the behavior he or she once did. Since most conservatives believe that rules and penal- ties change conduct (indeed they are among the strongest proponents of heavy penalties for crime). the possibility that campus guidelines against hate speech and assault would decrease those behaviors ought to be conceded.“ Of course, the conservative may argue that regula- tion has costs of its own-something even the two of us would con- cede-but this is a different argument fi'om the bellwether one." A further neoconservative objection is that silencing the racist through legislation might deprive the campus community of the “town hall” opportunity it has to discuss and analyze issues of race when incidents of racism come to light.” But campuses could hold those meetings and discussions anyway. The rules are not likely to suppress hate speech entirely; even with them in place, there will continue to be some number of incidents of racist speech and behavior. The difference is that now there will be the possibility of campus disciplinary hearings, which are even more likely to instigate the “town hall” discussions the argument assumes are desirable. Because the bellwether argument ignores that rules will have at least some edifying effect and that there are other ways of having campuswide discussions short of allowing racial confrontation to flourish, the argument appears to deserve little weight.

#### 2. Counter-speech fails – hate speech makes the victim unable to respond and counter-speech can't convince the racist

**Auxier 14** [Adele Auxier (Juris Doctor candidate, Notre Dame Law School, 2007), "Tiptoeing through the Junkyard: Three Approaches to the Moral Dilemma of Racist Hate Speech," Notre Dame Journal of Law, Ethics & Public Policy, February 2014] AZ

Lawrence argued that counter-speech was particularly ineffective in the context of informal "assaultive" speech for two reasons. First, assaultive racist speech frequently produces (and is intended to produce) a visceral emotional response of shock, fear, and rage in the listener, which hinders their ability to respond verbally. Second, speech is perceived as an inadequate response to such a total attack on one's identity. Lawrence saw these verbal assaults as a kind of "preemptive" strike designed to silence and dehumanize the victim. Finally, Lawrence reminded his hearers that the "interest in the free flow of ideas" was not as compelling for all speakers. The First Amendment's speech protections did not originally extend to blacks at all.7 ' The "free marketplace" of ideas in America has contained quite a bit of racist speech, and sometimes defenders of free speech have attacked those who publicly oppose racist incidents for trying to "silence speech." 75 Lawrence says that this criticism misses the point that blacks and other historic victims of discrimination make about racism and racist speech-namely, that one of the main goals and effects of racist ideologies is to silence speech by members of disfavored groups.76

#### 3. The calleros example is wrong: they force the burden onto students and not every setting is as progressive as his examples- our evidence directly indicts theirs

**Delgado and Yun 96** [Richard Delgado (Professor of Law @ University of Colorado, JD, 1974 University of California Berkeley)and David H. Yun (Member of Colorado Bar. JD 1993 “THE SPEECH WE HATE”: FIRST AMENDMENT TOTALISM, THE ACLU, AND THE PRINCIPLE OF DIALOGIC POLITICS”. 1996. Arizona State Law Journal. <http://ssrn.com/abstract=2094597>. ] NB

Nothing that we said in either of the two articles causes us to disagree with Professor Calleros. Talking back sometimes works. We would just note two reservations. The first is that the talking back solution puts the onus on young minority undergraduates to redress the harm of hate speech. This is a burden to them, one they must shoulder in addition to getting their own educations. In other words, in addition to educating themselves, they must educate the entire campus community, and do so every time a racial incident takes place. Second, it would be a serious mistake for Professor Calleros' readers to generalize from his sunny and optimistic experience. Not every setting is as progressive, supportive, and loving as A.S.U. and Stanford University. Some campuses do not enjoy a strong norm of civility or respect for people \*1282 of color. And this is certainly true of hundreds of noneducational institutions, such as the military, fraternities, and certain sport teams. And it is even more true of the many ugly street encounters minorities suffer daily. In many of these settings, talking back is not an option. In others, it would be foolhardy, because of the imbalance of power. Ivory tower academics must be careful of generalizing from one or two experiences in which speech-their favorite mechanism-seemingly has worked. The social history of pornography and hate speech in the United States argues for caution, and for a multitude of approaches, not just one. In general, we believe that traditional defenders of free speech must beware of the tendency to light upon a single solution to a complex problem. The purpose of this essay is to explore a type of unitary or essentialist thinking that we find prevalent in First Amendment absolutist circles. Although we welcome Calleros' article, we think that it has overtones of this simplistic one-size-fits-all approach. It is in the hope that the future discussion of hate speech will someday exhibit the kind of nuance that we see in other areas of constitutional law, for example equal protection, that we write this essay.

#### Students shouldn’t be responsible for justifying themselves in every single instance, codes don’t mean that all racist incidents go away so they still have to be able to critically think and explain why racism is wrong- which isn’t a skill that is lacking either

#### 4. The psychological violence of hate speech makes oppressors more likely to strike again and increases stigmatization which normalizes violence. The aggressor’s pressure valve doesn’t stop leaking.

**Delgado and Yun 94** [Richard Delgado (Professor of Law @ University of Colorado, JD, 1974 University of California Berkeley)and David H. Yun (Member of Colorado Bar. JD 1993, University of Colorado), Pressure Valves and Bloodied Chickens: An Analysis of Paternalistic Objections to Hate Speech Regulation, 82 Cal. L. Rev. 871 (1994). Available at: <http://scholarship.law.berkeley.edu/californialawreview/vol82/iss4/5>] NB

The pressure valve argument holds that rules prohibiting hate speech are unwise because they increase the danger racism poses to minorities.50 Forcing racists to bottle up their dislike of minority group members means that they will be more likely to say or do something hurtful later. Free speech thus functions as a pressure valve, allowing tension to dissipate before it reaches a dangerous level. 1 Pressure valve proponents argue that if minorities understood this, they would oppose antiracism rules. The argument is paternalistic; it says we are denying you what you say you want, and we are doing it for your own good. The rules, which you think will help you, will really make matters worse. If you knew this, you would join us in opposing them. Hate speech may make the speaker feel better, at least temporarily, but it does not make the victim safer. Quite the contrary, the psychological evidence suggests that permitting one person to say or do hateful things to another increases,rather than decreases, the chance that he or she will do so again in the future. 2 Moreover, others may believe it is permissible to follow suit. 3 Human beings are not mechanical objects. Our behavior is more complex than the laws of physics that describe pressure valves, tanks, and the behavior of a gas or liquid in a tube. In particular, we use symbols to construct our social world, a world that contains categories and expecta- tions for "black," "woman," "child," "criminal," "wartime enemy," and so on.5 4 Once the roles we create for these categories are in place, they govern the way we speak of and act toward members of those categories in the future.55 Even simple barnyard animals act on the basis of categories. Poultry farmers know that a chicken with a single speck of blood will be pecked to death by the others." With chickens, of course, the categories are neural and innate, functioning at a level more basic than language. But social sci- ence experiments demonstrate that the way we categorize others affects our treatment of them. An Iowa teacher's famous "blue eyes/brown eyes" experiment showed that even a one-day assignment of stigma can change behavior and school performance.57 At Stanford University, Phillip Zimbardo assigned students to play the roles of prisoner and prison guard, but was forced to discontinue the experiment when some of the participants began taking their roles too seriously. 8 And Diane Sculley's interviews with male sexual offenders showed that many did not see themselves as offenders at all. In fact, research suggests that exposure to sexually violent pornography increases men's antagonism toward women and intensifies rapists' belief that their victims really welcomed their attentions.59 At Yale University, Stanley Milgram showed that many members of a university community could be made to violate their conscience if an authority figure invited them to do so and assured them this was permissible and safe.6" The evidence, then, suggests that allowing persons to stigmatize or revile others makes them more aggressive, not less so. Once the speaker forms the category of deserved-victim, his or her behavior may well con- tinue and escalate to bullying and physical violence. Further, the studies appear to demonstrate that stereotypical treatment tends to generalize- what we do teaches others that they may do likewise. Pressure valves may be safer after letting off steam; human beings are not.

#### 5. No chilling effect

**Gelber & McNamara 15** [Katharine Gelber (Professor of Politics and Public Policy at the University of Queensland), Luke McNamara, "The Effects of Civil Hate Speech Laws: Lessons from Australia," Law & Society Review, 2015] AZ

What of the fourth and fifth claims, that hate speech laws have a chilling effect, discouraging people from engaging in robust political debate on important matters of public policy, or that they create free speech martyrs who use the regulatory system to gain prominence for their views? Our analysis of letters to the editor revealed little evidence that public discourse has been diminished over the past 25 years. Robust debates have been had on a broad range of issues including the land rights of Indigenous Australians, same-sex marriage, and the treatment of asylum-seekers. Our analysis revealed the continued expression of prejudice over time. The fact that we detected a shift away from more intemperate styles of language cannot be said to support the chilling effect claim. At the heart of this claim is a concern about the silencing of views and opinion. At the same time that Bolt claimed he was being “silenced” by hate speech laws, he was able to disseminate his views widely through prominent media attention (Gelber and McNamara 2013: 474–76). Therefore, although the distinction may be contentious, we distinguish between desirable and undesirable effects. Hate speech laws are designed to influence the terms in which individuals express their views in public (desirable), however, they are not designed to make certain topics “off limits” (undesirable). Our research suggests that the risk of a chilling effect has not been substantiated. Australians are willing to express robust views on a broad range of policy issues

#### 6. it’s simply another avenue of recourse to deter harmful speech which impact outweighs and represents a way of directly taking action

**Delgado and Yun 94** [Richard Delgado (Professor of Law @ University of Colorado, JD, 1974 University of California Berkeley)and David H. Yun (Member of Colorado Bar. JD 1993, University of Colorado), “The Neoconservative Case against Hate-speech regulation- lively, d’souza, Gates, Carter, and the toughlove Crowd” Vanderbilt Law Review. 1994.] NB

#### A fourth argument many neoconservative critics of hate-speech regulations make is that prohibitions against verbal abuse are unwise because they encourage minorities to see themselves as victims. Instead of rushing to the authorities every time they hear something that wounds their feelings, persons from minority groups ought to learn to speak back or ignore the ofi‘ending behavior. A system of rules and complaints reinforces in their minds that they are weak and in need of protection, that their lot in life is to be victimized rather than to make use of those opportunities that are available to them. Carter, for example, writes that anti-hate speech rules cater to “those whose backgrounds of oppression make them especially sensitive to the threatening nuances that lurk behind racist sentiment.”“ Lively warns that the rules reinforce a system of “supplication and self- abasement’?‘ D’Souza that they distort and prevent interracial friendships and encourage a “crybaby” attitude;“ Gates that they reinforce a “therapeutic" mentality and an unhealthy preoccupation with feelings." Would putting into place hate-speech rules induce passivity and a victim mentality among minority populations? This seems unlikely, among other reasons because other alternatives will remain as before. No African American or lesbian student is required to make a complaint when targeted by vicious verbal abuse. He or she can talk back or ignore it if he or she sees fit. Hate-speech rules sim- ply provide an additional avenue of recourse to those who wish to take advantage of them. Indeed, one could argue that filing a complaint constitutes one way of taking charge of one’s destiny: One is active, instead of passively “lumping it” when verbal abuse strikes. It is worth noting that we do not make the “victimization” charge in con- nection with other offenses that we suffer, such as having a car stolen or a house burglarized, nor do we encourage those victimized in this fashion to “rise above it” or talk back to their victimizer. If we see recourse differentb' in the two sets of situations it may be because we secretly behave that a black who is called “nigger” by a group of whites is in reality not a victim. If so, it would make sense to encour- age him not to dwell on or sulk over the event. But this is different from saying that filing a complaint deepens victimization; moreover, many studies have shown it simply is untrue.“ Racist speech is the harm. Filing a complaint is not. There is no empirical evidence that filing a civil rights complaint causes otherwise innocuous behavior to acquire the capacity to harm the complainant

#### 7. Informal policies after the aff lack the clarity of definitive speech codes – turns chilling effect

**Juhan 12** S. Cagle Juhan (Judicial Law Clerk, Western District of Virginia; JD University of Virginia School of Law). “Free Speech, Hate Speech, and the Hostile Speech Environment.” Virginia Law Review. November 2012

Iota Xi Chapter of Sigma Chi Fraternity v. George Mason University) 70 illustrates the problem with **a discretionary system: government bureaucrats serve as roving commissioners, picking and choosing which speech to regulate,** often on the grounds that certain groups object to it. The danger is threefold. First, **the absence of a written policy leaves a vacuum.** By their very nature, **decisions made on a case-by-case basis lack debated, agreed-upon, and dis-seminated principles that can guide action**.’ Thus, one cannot ex ante abide by guidelines that are unknowable until after one speaks. **The result is the commonly cited “chilling effect”: speakers will say less, even if their speech would be constitutionally pro-tected, because they cannot be assured that they will not be pun-ished for** it.‘ **Second, informal, standardless decision-making processes about what speech should be allowed** are viewed with particular skepti-cism in First Amendment doctrine because they both **contribute to the chilling effect and enhance the risk of discriminatory or arbi-trary regulation**.’ **Ad hoc judgments allow universities to sanction speech** because they disapprove of it, which is precisely the out-come that the First Amendment was designed to prevent.‘The third and related concern is that **administrators are easily captured by campus constituencies that mobilize against hateful or merely unpopular speech**.’ The Iota Xi case offers a clear example of this problem. Students objecting to the fraternity’s speech convinced an administrator that the speech created a hostile educational environment and conflicted with the university’s mission; administrators subsequently imposed sanctions, despite not having done so in an initial meeting with the fraternity that occurred the same day as the one with the offended students. The risk of “captured” administrators is especially high when hate speech is at issue.’ Hate speech frequently targets minorities or historically disfavored groups. These constituencies, in addition to understandably disagreeing with hate speech that disparages them, are some of the most vocal proponents and defenders of the equality, diversity, and tolerance norms that have gained incredible purchase in the realm of higher education. Accusations or percep-tions that a university or its administrators are not sympathetic enough to these norms or to the groups invoking them can have adverse consequences for a university’s prestige and an administra- tor’s career.’ Therefore, **there are strong personal and institutional incentives** to err on the side of equality, diversity, and tolerance ideals and against constitutionally protected speech.‘ One observer has aptly termed **ad hoc decision-making processes “implicit speech codes**.” ’ Ultimately, however, whether ex-plicit or implicit, speech codes increase (1) the chilling effect on speech, (2) the danger of viewpoint discrimination, and (3) the op-portunity for constituencies to suppress opponents by capturing administrators.’

#### There’s also no impact to driving thought underground if there are multiple other racist incidents- also driving thoughts underground ensure that we stop actual racist incidents

#### <<< C/A Horne 16- two implications

#### This outweighs:

#### A. Terminal defense against their impact- at worst, it is the same amount of violence whether it be psychological or physical

#### B. Magnitude- empirical studies verify that once you create a category for people that make them think that it is permissible to conduct certain actions, they are more likely to do it again

### AT: Johnston

#### 1. uniqueness overwhelms the link, your card describes a current protestors and argues that their right to put codes on certain types of speech are good, that flows neg.

#### 2. Their card Johnston- is a double turn and answers Friedersorf- it’s good to police bad speech

Some will argue that I'm painting too rosy a picture of typical campus "discussions" around issues of identity and ideology in the year 2015. It's not rational discourse that such activists use to change people's behavior, argues Conor Friedersdorf of The Atlantic, a persistent critic of the movement, but "stigma, call-outs, and norm-shaping." But even granting that premise, since when is upholding norms something to condemn? When has publicly shaming people who do publicly bad things ever not been a legitimate part of political debate? Friedersdorf is shaming activists, not reasoning with them, when he describes them as overwrought children. I'm shaming Friedersdorf, not reasoning with him, when I point that fact out. And that's OK. There's nothing wrong with a little public shaming. In fact, sometimes a little public shaming is exactly what circumstances call for. Last May, news leaked at San Diego State University that Vincent Martin, a tenured professor, had been found by campus investigators to have sexually harassed one of his undergraduate students. He'd neither been terminated nor publicly reprimanded — the whole thing had been swept under the rug. When students found out, they protested. They planned a picket outside of one of Martin's classrooms, and when he canceled that day's classes they plastered his office door and the surrounding walls with their signs and posters. The protesters' goal wasn't to engage Martin in discussion. They had no reason to believe that a rational consideration of the harms of sexual harassment would dissuade Martin from re-offending, or, for that matter, convince the university to get him out of the classroom before he victimized someone else. (It has since emerged that Martin sexually harassed multiple students at two different universities.) No, what the protesters were engaged in was exactly what Friedersdorf criticizes: "stigma, call-outs, and norm-shaping." And they were right. That was what the situation required, and it worked — Vincent Martin is no longer employed at SDSU, and he will have a very difficult time finding another teaching job.

### AT: Next Two Cards

#### these are literally the status quo, they aren't being shut down and people have the right to protest all these different things, it's a question of whether you regulate free speech or not.

#### The Block evidence is empirically insufficient- it’s just about Berkeley.